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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,620	12/11/2003	Hiroshi Nakahata	AA610	8502

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,620

Applicant(s)

NAKAHATA ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 21 February 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the first stretchable zone being stretched to its limit in order for the restriction means to be inactivated) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Sauer discloses a stretchable panel having a first end which comprises the first stretchable zone. The material comprising the first end is fully capable of being stretched, and therefore may be defined as the first stretchable zone. The stretchable panel also has a middle portion comprising the second stretchable zone, which is restricted by restriction means. When a force is applied to the restriction means, it is inactivated and the second stretchable zone is allowed to extend. Therefore, Sauer discloses all limitations of the instant claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3761

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauer (5,624,428).

Sauer discloses an absorbent article, as shown in figure 1, comprising a chassis 20 and a stretchable fastening member 46. The chassis 20 comprises a liquid pervious topsheet 30, a liquid impervious backsheet 32, and an absorbent core 34. The stretchable fastening member 46 comprises a fixed position joined to the chassis, as shown in figure 3, having a distal portion provided with a fastening material 44 and a stretchable panel positioned therebetween. The stretchable fastening member 46 comprises first and second stretchable zones, the second fastening zone being restricted by a restriction means 42, as shown in figure 3. When sufficient force is applied the second stretchable zone provides additional extensibility, as disclosed in column 8, lines 35-39.

With respect to claim 3, the chassis 20 has a side flap that is superimposed over the stretchable panel 46, as shown in figure 3. The restriction means 42 comprises a bonding means to detachably join a portion of the stretchable panel 46 to the side flap of the chassis 20, as shown in figure 3.

With respect to claim 5, the side flap of the chassis 20 is non-stretchable.

With respect to claim 7, the bonding means 42 extends between the waist and leg openings, and therefore comprises waist and leg bonding means.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer (5,624,428).

Sauer discloses all aspects of the claimed invention with the exception of the force required to detach the bonding means. Sauer discloses the bonding means are to be detached during removal of the article, as disclosed in column 8, lines 35-39. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the bonding means of Sauer detachable upon the application of no more than 350 g/25mm, since it has been held that where the general conditions of the claim are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art.

Allowable Subject Matter

Claims 4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose either the bonding means provided in the configuration wherein the stretchable panel is unfolded, or the waist bonding means

Art Unit: 3761

having a different bonding strength from the leg bonding means. The closest prior art of record, Sauer (5,624,428), discloses the stretchable panel in a folded configuration, which allows the bonding means to attach to both side flaps of the chassis in order to provide closure to the waist opening. With the bonding means of Sauer, the stretchable panel must be folded. The bonding means of Sauer further fail to provide different bonding strengths between the waist and leg bonding means, since the waist and leg bonding means both comprise the same hook and loop type fastener. Therefore, the prior art of record does not teach or fairly suggest the claimed subject matter.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

Art Unit: 3761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CWA
cla
April 28, 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

